IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 7783 of 2005

Between:

V. Indira Devi W/o V.B.V.S. Nageswara Rao
R/o Main Road, Near Old Bus Stand Bheemunipatnam, Visakhapatnam District

..... PETITIONER

AND

1 The A.P. Eastern Power Distribution Co., Ltd., Dabagardens, Viskahapatnam rep by Chairman & Managing Director
2 The Superintending Engineer, Assessments, APEPDCL, Visakhapatnam
3 The Divisional Engineer, Operation APEPDC Ltd., Madhurawada Visakhapatnam-530002
4 The Assistant Divisional Engineer, Operation, APEPDC. Ltd., Mathurawada, Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ order or direction particularly one in the nature of Mandamus declaring the provisional Assessment notice No. ADE/O/MDW/TE/MP/BB Cases/DOC No. D.No. 81/2005 dated 16-02-2005 of the 4th respondent herein as arbitrary, illegal and consequently by nullifying he said provisional Assessment demand notice pending inquiry into the allegations, direct the respondents to enquire into the allegations by holding an independent enquiry and personal inspection to the premises in respect of power supply to the connection consumer SC No. 1422 provided at House-Main Road, Near Old Bus Stand, Bheemunipatnam and pass such other relief or reliefs as this honourable Court may deem fit just and proper in the circumstances of the case.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents: MR.M.SREERAMULU REDDY

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner filed this writ petition seeking a declaration that the Provisional Assessment Notice No. ADE/O/MDW/TEMP/BB Cases/DOC No. D. No. 81/2005 dated 16.02.2005 of the fourth respondent as arbitrary and illegal and consequently direct the respondents to enquire into the allegations by holding an independent enquiry and personal inspection into the matter. This issue is no longer res-integra. A Division bench of this Court on 11-03-2004, while disposing of W.A. Nos. 452 and 477 of 2004 held that there is no such power, while issuing provisional assessment, to forthwith stop or disconnect electricity supply. Provisional assessment is in the nature of a show cause notice against which the consumer is entitled to have an opportunity of hearing before passing final order of assessment by the concerned authority.

In fact, this order of the Division Bench had become final quite some time back. But still the respondents are resorting to issue this kind of orders time and again. Hence, the first respondent is directed to issue suitable instructions to the authorities concerned in this regard, to follow the judgment rendered by the Division Bench of this Court referred to supra in order to avoid the scope of unnecessarily driving the affected parties to the Court by passing orders like the impugned.

Having regard to the guidelines laid down by the Division Bench of this Court in W.A. Nos. 452 and 477 of 2004, this writ petition deserves to be allowed.

Accordingly, the writ petition is allowed and the impugned provisional assessment dated 16-2-2005, issued by the fourth respondent is hereby set aside and the respondents are directed to enquire into the allegations by holding an independent enquiry into the matter. No costs.

11-04-2005

Note:

Issue operative potion of the

Order on wire at party's cost.

B/0 ***KVSN***

To

1 The Chairman & Managing Director, A.P. Eastern Power Distribution Co., Ltd., Dabagardens, Viskahapatnam
2 The Superintending Engineer, Assessments, APEPDCL, Visakhapatnam
3 The Divisional Engineer, Operation APEPDC Ltd., Madhurawada Visakhapatnam-530002
4 The Assistant Divisional Engineer, Operation, APEPDC. Ltd., Mathurawada, Visakhapatnam District

5 Two CD copies.